

REMARKS

Claims 1, 4 – 11, 13 – 15, and 18 – 21 are in the application. Claims 1, 8, 13, 18, and 21 are currently amended; claims 7 and 15 were previously presented; claims 2, 3, 12, 16, and 17 are canceled, and claims 4 – 6, 9 – 11, 14, 19, and 20 remain unchanged from the original versions thereof. Claims 1, 8, 13, 18, and 21 are the independent claims herein.

No new matter has been added to the application as a result of the current amendments submitted herewith. For example, the Specification clearly discloses setting the value of CurrentNbChannels and CurrentCPUUtil to one if either is zero for the claimed determination of the number of new conference participants or channels (pg. 8, ln. 24 – 31), the number of participants in the new conference is not known at the time of the determining of the number of additional participants that can be supported by each of the plurality of media processors and the number of participants in the new conference may dynamically change (pg. 8, ln. 2 – 7), and at least two of the plurality of media processors operate on different devices having different capabilities (pg. 4, ln. 10 – 22).

Reconsideration and further examination are respectfully requested.

Claim Objections

Claims 1, 8, 13, 18, and 21 were objected to in the Final Office Action dated November 25, 2008 (hereinafter, FOA) because of the following informalities: The mentioned equation in the claims is inconsistent with the mentioned equation in 31 of the PG Publication of the instant application. The claim equation is missing the “-1” expression/operand. Appropriate correction was required.

Applicant notes that the Advisory Action dated February 23, 2009 stated the proposed claim amendments submitted in the After Final Response were “entered” in the application. Since claims 1, 8, 13, 18, and 21 were amended to include the

correction specified by the Office, it is believed that the pending claims overcome the objection of record.

Applicant respectfully reserves the right to further address the previous objection if the objection remains and requests the Examiner to clarify any remaining claim objections.

Claim Rejections – 35 USC § 112

Claims 1 – 3, 8, 12, 17, 18, and 21 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention in the FOA.

However, the Advisory Action dated February 23, 2009 stated the proposed claim amendments submitted in the After Final Response were “entered” in the application. Accordingly, the rejection under 35 USC 112, is moot.

Claim Rejections – 35 USC § 103

Claims 1 – 15 and 17 – 21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ju et al U.S. Patent No. 6,744,741. This rejection is traversed.

Applicant respectfully submits that the cited and relied upon Ju fails to disclose or suggest independent claims 1, 8, 13, 18, and 21. Applicant notes that claim 1, representative of the independent claims, relates to a method for selecting a media processor to host a new conference, including receiving an indication of a need for a media processor to host a new conference; determining, for each of a plurality of media processors under control of a multipoint controller, a number of additional participants that can be supported by each of the plurality of media processors based on a current number of conference participants on each of the plurality of media processors and based on a current CPU utilization percentage for each of the plurality of media processors in accordance with the following expression:

$$\text{NbChannels} = \text{CurrentNbChannels} \times ((\text{MaxCPUUtil}/\text{CurrentCPUUtil}) - 1)$$

where NbChannels is a number of new conference participants or channels each media processor can support, CurrentNbChannels is a value indicating the current number of conference participants on a media processor, MaxCPUUtil is a constant value indicating a maximum CPU utilization percentage allowed for the media processor, CurrentCPUUtil is a value indicating a current CPU utilization percentage for the media processor, the value of CurrentNbChannels is set to one for the determining if it is zero, and the value CurrentCPUUtil is set to one for the determining if it is zero; and determining which one of the plurality of media processors is to host the new conference based, at least in part, on the determined number of additional participants that each of the plurality of media processors can support, where the number of participants in the new conference is not known at the time of the determining of the number of additional participants that can be supported by each of the plurality of media processors, the number of participants in the new conference may dynamically change, and at least two of the plurality of media processors operate on different devices having different capabilities .

Applicant notes that in the “Response to Arguments” section of the FOA and also in the Advisory Action, the Examiner stated that the equation:

$$\text{NbChannels} = \text{CurrentNbChannels} \times ((\text{MaxCPUUtil}/\text{CurrentCPUUtil}) - 1)$$

is “actually a standard equation that is used to make a determination as to how many additional elements are possible in light of a current number of elements and a maximum capacity. This type of standard equation is general knowledge and can be applied to any real world setting where one seeks to quantitatively make a determination as to whether a situation can handle more elements”. The Examiner further stated that the claimed equation “says nothing more than: ‘if current CPU

utilization is at maximum Capacity, then the CPU cannot handle any more load' ” (See Continuation of 11, pg. 2 of the Advisory Action).

Applicant respectfully disputes, disagrees with, and challenges the Examiner's assertion that the equation included in the claims is generally known. First, the claimed equation says more, much more, than what the Office attributes to the equation. The Office's characterization of the claimed equation is an over-simplification and in fact a misrepresentation of that which is claimed. The Office's characterization of the equation is true only when MaxCPUUtil is equal to CurrentCPUUtil. Since this is a particular and limited circumstance to which the claims are not limited, it is evident that the claimed equation is not limited or specifically constrained to merely stating “nothing more than: ‘if current CPU utilization is at maximum Capacity, then the CPU cannot handle any more load’

Further, the specifically claimed MaxCPUUtil and CurrentCPUUtil for each of the plurality of the media processors is not disclosed by the cited and relied upon Ju. Applicant notes that while Ju discloses allocating a new media conferences to DSPs 12 according to resource information, there is no disclosure or suggestion that a system or method to select the DSPs to use for the new media conference is based on the MaxCPUUtil and CurrentCPUUtil of the DSPs (See Ju, col. 5, ln. 60 - 62). Instead, Ju, at most, discloses the resource information relates to processing resources, commonly measured in millions of instructions per second (MIPS). (See Ju, col. 6, ln. 9 – 11) Ju continually and specifically discloses the “MIPS” executed by the devices therein. See for example, FIG. 3, Table 30 and the discussion of same at col. 8, ln. 54 – col. 9, ln. 15) Ju explicitly and exclusively relates to MIPS, not the claimed the MaxCPUUtil and CurrentCPUUtil.

Applicant further submits that the claims specifically relate to “at least two of the plurality of media processors operate on different devices having different capabilities”. As such, the mere determination, calculation, or knowledge of the MIPS executed by the media processors would not be sufficient to determine the additional new conference participants or channels that each media processor could support since, for

instance, different devices having different capabilities and CPUs would have different MaxCPUUtil and CurrentCPUUtil values for the same number of MIPs being processed. That is, the number of MIPs disclosed in Ju is not the same as or analogous to the claimed MaxCPUUtil and CurrentCPUUtil values for the claimed invention where at least two of the plurality of claimed media processors operate on different devices having different capabilities.

Applicant notes that the Office's simplified characterization of the claims, including the claimed equation, does not fully consider all aspects of the claim language. For example, the FOA does not appear to fully consider that the claimed MaxCPUUtil and CurrentCPUUtil parameters claimed by Applicant are specifically claimed, and not merely any capacity metric. This is particularly true since Applicant's claims state at least two of the plurality of media processors operate on different devices having different capabilities. Applicant notes that there may be other metrics for expressing and/or measuring a capacity of a media processor, such as the MIPs disclosed by Ju and the number of channels or participants handled by other systems. Thus, Applicant specific disclosure and claiming of using MaxCPUUtil and CurrentCPUUtil for a plurality of media processors in the specifically claimed context where at least two of the plurality of media processors operate on different devices having different capabilities is not merely the expression of "the well known concept of maximum capacity", as argued in the FOA and the Advisory Action.

Applicant respectfully submits that the overall claimed aspects of selecting a media processor to host a new conference based on the claimed receiving an indication of a need for a media processor to host a new conference; determining a number of additional participants that can be supported by each of the plurality of media processors based on a current number of conference participants on each of the plurality of media processors and based on a current CPU utilization percentage for each of the plurality of media processors; and determining which one of the plurality of media processors is to host the new conference based, at least in part, on the determined number of additional participants that each of the plurality of media processors can support, where the number of participants in the new conference is not

known at the time of the determining of the number of additional participants that can be supported by each of the plurality of media processors, the number of participants in the new conference may dynamically change, and at least two of the plurality of media processors operate on different devices having different capabilities are not disclosed by Ju. That is, the claims include more than the equation discussed at length hereinabove and in previous Office Actions and Responses thereto. Accordingly, Applicant submits that Ju fails to disclose the specific operations and processes disclosed by Applicant.

Applicant therefore respectfully submits that claims 1, 8, 13, 18, and 21 are patentable over Ju under 35 USC 103(a). Applicant further submits that claims 2 – 7, 9 – 12, 14, 15, 17, 19, and 20 are also patentable over Ju for at least depending on a patentable base claim.

Accordingly, Applicant requests the reconsideration and withdrawal of the rejection of claims 1 – 15 and 17 – 21 under 35 USC 103(a) and the allowance of same.

CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

Respectfully submitted,

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